

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

CHANNETTE CARPENTER, individually,))	
And as Special Administrator of the Estate))	
Of baby Carpenter (deceased))	
)	
Plaintiff,)	07 C 6918
)	
V.)	
)	
THE CITY OF CHICAGO et. al.)	Judge Virginia M. Kendall
)	
Defendants)	

**MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANT COUNTY OF COOK'S MOTION TO DISMISS CERMAK HEALTH
SERVICES OF COOK COUNTY BECAUSE IT IS A NON -SUABLE ENTITY**

NOW COME Defendant, COUNTY OF COOK, by its attorney, RICHARD A. DEVINE, State's Attorney of Cook County, through his Assistant, Andrew J. Creighton, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure moves this Honorable Court to Dismiss Cermak Health Services of Cook County because it is a non-suable entity. In support of its motion, Defendant states as follows:

Cermak Health Services must be dismissed as a defendant from this cause of action. Cermak is a non-suable entity, and therefore cannot be named separately as a defendant, nor can judgment be rendered separately against it as a defendant. In Illinois, a defendant must have a legal existence, either natural or artificial, to be subject to suit. *Jackson v. Village of Rosemont*, 180 Ill. App.3d 932, 536 N.E.2d 720, 723 (1988). Departments within a governing unit lack the necessary separate legal existence. In *Payne v. Cook County Hospital*, 719 F. Supp. 730, 733-34 (N.D.Ill. 1989), the Court stated,

Alleging that it is a non-suable entity, the hospital submits an additional reason for dismissal. Since it has no legal existence separate and apart from the County of Cook, the hospital cannot be sued. *See, Mayes v. Elrod*, 470 F. Supp. 1188, 1192 (N.D. Ill. 1979) ... That legal issue is beyond dispute. *Citations omitted.*

There are no statutory provisions elevating Cermak Health Services of Cook County to the level of an independent government entity for the purpose of a lawsuit, therefore Plaintiff fails to establish that Cermak Health Services has an independent legal status. Consequently, Cermak is a non-suable entity, and must be dismissed from this cause of action.

CONCLUSION

WHEREFORE, Defendant COUNTY OF COOK respectfully request that this Honorable Court dismiss CERMAK HEALTH SERVICES OF COOK COUNTY with prejudice.

Respectfully submitted,

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